

AMENDED IN ASSEMBLY JANUARY 17, 2012

AMENDED IN ASSEMBLY MAY 26, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 832**

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**Introduced by Assembly Member Ammiano**

February 17, 2011

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An act to add Section 995.3 to the Revenue and Taxation Code, relating to taxation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 832, as amended, Ammiano. Property taxation: ~~storage media for computer programs; software.~~

Existing law requires storage media for computer programs to be valued on the 1972 lien date and thereafter as if there were no computer program on the media except basic operational programs, and otherwise prohibits the valuation of computer programs for the purpose of property taxation. ~~Existing law defines basic operational programs to mean, for purposes of the taxation of storage media for computer programs, a computer program that is fundamental and necessary to the functioning of a computer, and that is a part of an operating system that consists of the control program elements of that system. Existing regulations of the State Board of Equalization provide that a program is included in the sale or lease price of computer equipment if, among other things, the equipment and the program are sold or leased at a single price, and authorizes the county assessor, in valuing computer equipment that is sold or leased at a single price, lacking evidence to the contrary, to regard the total amount charged as indicative of the value of taxable~~

tangible property. Existing regulations require a person claiming that a single price sale or lease includes charges for nontaxable programs, to identify the nontaxable programs and supply specified information to enable the county assessor to make an informed judgment concerning the proper value to be ascribed to taxable and nontaxable programs.

This bill generally would codify a portion of a regulation of the State Board of Equalization, and also would require a person claiming that a single price sale or lease includes charges for nontaxable programs or services to prove, by clear and convincing evidence, the existence of nontaxable programs or services by supplying sales price, costs, or other information regarding the nontaxable programs and services *would state the intent of the Legislature to enact legislation creating a standard for the fair and reasonable valuation of software embedded in business personal property, as provided.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. It is the intent of the Legislature to enact*  
2     *legislation codifying a standard for the fair and reasonable*  
3     *valuation of software embedded in business personal property*  
4     *resulting from an interested parties process lead by the State Board*  
5     *of Equalization and that includes the business community and*  
6     *county assessors.*

7     ~~SECTION 1. Section 995.3 is added to the Revenue and~~  
8     ~~Taxation Code, to read:~~

9     ~~995.3. (a) The term “basic operational program” refers to a~~  
10    ~~“control program” as defined in Section 995.2 that is included in~~  
11    ~~the sale or lease price of the computer equipment. A program is~~  
12    ~~included in the sale or lease price of the computer equipment if~~  
13    ~~either of the following are met:~~

14    ~~(1) The equipment and the program are sold or leased at a single~~  
15    ~~price.~~

16    ~~(2) The purchase or lease documents set forth separate prices~~  
17    ~~for the equipment and the program, but the program may not be~~  
18    ~~accepted or rejected at the option of the customer.~~

19    ~~(b) In valuing computer equipment that is sold or leased at a~~  
20    ~~single price not segregated between taxable property and~~  
21    ~~nontaxable programs as defined in Section 995.2, the county~~

1 ~~assessor, lacking evidence to the contrary, may regard the total~~  
2 ~~amount charged as indicative of the value of taxable tangible~~  
3 ~~personal property.~~

4 ~~(e) A person claiming that a single price sale or lease includes~~  
5 ~~charges for nontaxable programs or services shall have the burden~~  
6 ~~of proving, by clear and convincing evidence, the existence of~~  
7 ~~nontaxable programs or services by supplying sales price, costs,~~  
8 ~~or other information regarding the nontaxable programs or services,~~  
9 ~~including, but not limited to, a recognized State Board of~~  
10 ~~Equalization valuation approach, technique, or method, that will~~  
11 ~~enable the assessor to make an informed judgment concerning the~~  
12 ~~proper value to be ascribed to taxable and nontaxable components~~  
13 ~~of the property.~~